



Docket No. 49927 (71526)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: Seya, et al.

SERIAL NO.: 09/601,371 EXAMINER: S. Prasad

FILED: December 5, 2000 GROUP: 1646

FOR: CYTOKINE INDUCERS COMPRISING M161Ag

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, DC 20231

Sir:

**AMENDMENT**

Applicants are in receipt of the Office Action dated August 13, 2002. Kindly amend the application as follows.

**IN THE CLAIMS:**

Please cancel claims 1 and 3-5 without prejudice.

Kindly add the following new claims 11-14.

11. An isolated or purified cytokine inducer comprising a protein M161Ag (Mycoplasma fermentans 161 Ag).

12. The cytokine inducer according to claim 11, wherein the protein M161Ag is produced by expressing a gene which encodes a polypeptide having an amino acid sequence as set forth in SEQ ID NO: 2.

13. The cytokine inducer according to claim 11 or 12, wherein the induced cytokines are selected from the group consisting of: interleukin-1 $\beta$ , tumor necrosis factor- $\alpha$ , interleukin-6, interleukin-10, interleukin-12, and interferon- $\gamma$ .

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1646#

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Seya et al.  
Application No.: 09/601,371 Group No.: 1646  
Filed: December 5, 2000 Examiner: S. Prasad  
For: CYTOKINE INDUCERS COMPRISING M161 Ag

Assistant Commissioner for Patents  
Washington, D.C. 20231

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## AMENDMENT TRANSMITTAL

1. Transmitted herewith is an amendment for this application.

## STATUS

2. Applicant is  
[ ] a small entity. A statement:  
[ ] is attached.  
[ ] was already filed.  
[X] other than a small entity.

## EXTENSION OF TERM

NOTE: "Extension of Time in Patent Cases (Supplement Amendments) — If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has

## CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

- deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

## FACSIMILE

- transmitted by facsimile to the Patent and Trademark Office.

Susan M. Dillon  
Signature

Date: February 13, 2003

Susan M. Dillon

(type or print name of person certifying)

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(Amendment Transmittal—page 1 of 4)

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*been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-35).*

NOTE: See 37 C.F.R. § 1.645 for extensions of time in interference proceedings, and 37 C.F.R. § 1.550(c) for extensions of time in reexamination proceedings.

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

*(complete (a) or (b), as applicable)*

- (a)  Applicant petitions for an extension of time under 37 C.F.R. § 1.136  
(fees: 37 C.F.R. § 1.17(a)(1)-(4)) for the total number of months checked below:

	Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
[ ]	one month	\$ 110.00	\$ 55.00
[ ]	two months	\$ 410.00	\$ 205.00
<input checked="" type="checkbox"/>	three months	\$ 930.00	\$ 465.00
[ ]	four months	\$ 1,450.00	\$ 725.00

Fee: \$ 930.00

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

- [ ] An extension for \_\_\_\_\_ months has already been secured. The fee paid therefor of  
\$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now  
requested.

Extension fee due with this request \$ 930.00

**OR**

- (b) [ ] Applicant believes that no extension of term is required. However, this conditional  
petition is being made to provide for the possibility that applicant has inadvertently  
overlooked the need for a petition for extension of time.

## FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3) SMALL ENTITY			OTHER THAN A SMALL ENTITY		
Claims Remaining After Amendment	Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee	OR	Rate	Addit. Fee
Total	Minus	=	x \$9 =	\$0		x \$18 =	\$
Indep.	Minus	=	x \$42 =	\$0		x \$84 =	\$
[ ] First Presentation of Multiple Dependent Claim			+ \$140 =	\$0		+ \$280 =	\$
		Total Addit. Fee	\$ 0.00	OR	Total Addit. Fee	\$	

\* If the entry in Col. 1 is less than the entry in Col. 2, write "O" in Col. 3,

\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".

\*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

**WARNING:** *"After final rejection or action (§ 1.113) amendments may be made canceling claims or complying with any requirement of form which has been made." 37 C.F.R. § 1.116(a) (emphasis added).*

*(complete (c) or (d), as applicable)*

(c)  No additional fee for claims is required.

**OR**

(d)  Total additional fee for claims required \$ \_\_\_\_\_.

## FEE PAYMENT

5.  Attached is a check in the sum of \$ 930.00.  
 Charge Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_.  
A duplicate of this transmittal is attached.

## FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6. [X] If any additional extension and/or fee is required, charge Account No. 04-1105.

### AND/OR

- [X] If any additional fee for claims is required, charge Account No. 04-1105.



SIGNATURE OF PRACTITIONER

Reg. No. 38,256

Christine C. O'Day

(type or print name of practitioner)

Dike, Bronstein, Roberts & Cushman

Intellectual Property Group

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